

REMARKS

Claims 1-29 are pending. Claims 13-24 and 30-40 have been rejected. The rejections of the claims are respectfully traversed in light of the following remarks, and reconsideration is requested.

Rejections Under 35 U.S.C. § 102(b)

Claims 13-24 and 30-40 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rassman (U.S. Patent No. 5,817,120).

In rejecting the claims, the Examiner states in the Advisory Action that "Rassman at least disclose[s] in figures [ ] 2a, 2c, a housing 22 . . . , a vacuum source (see col. 11, lines 60-67 and col. 12, lines 8-11[ ]) coupled to the housing . . . . Regarding the intended use of a vacuum source for drawing a hair graft into a hair graft chamber, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art to patentably distinguish the claimed invention from the prior art."

However, Rassman discloses that "surface tension created by fluid in the incision and a vacuum created during implantation also aids in maintaining hair graft 34 in the incision during withdrawal of cutting device 30" and that "surface tension created by fluid in the incision and a vacuum created during implantation generally are sufficient to maintain hair graft 34 in the incision during withdrawal of finger 41" (Rassman, col.11, lines 60-67 and col.12, lines 8-11) (emphases added). Thus, Rassman simply discloses that a vacuum is created within the incision by implanting member 31 being flush against incision 39 (Rassman, FIG. 2E) during implantation of the hair graft into the incision. There is no disclosure or suggestion in Rassman of: (1) a vacuum apparatus for drawing a hair graft into a hair graft chamber; or (2) a gas-permeable rod.

In contrast, Claims 13 and 30 each recite "a vacuum source operably coupled to the housing to provide suction at the open distal end for drawing a hair graft into the hair graft chamber through the open distal end" and "a gas-permeable rod inside the housing". Therefore, the present invention does include structural differences from the prior art. Thus, because Rassman does not disclose or suggest all the limitations of Claims 13 and 30, Claims 13 and 30 are patentable over Rassman.

Claims 14-24 and 31-40 are dependent upon Claims 13 and 30, respectively, and contain additional limitations that further distinguish them from Rassman. Therefore, Claims 14-24 and 31-40 are allowable over Rassman for at least the same reasons provided above with respect to Claims 13 and 30.

CONCLUSION

For the above reasons, Applicants believe pending Claims 13-24 and 30-40 are now in condition for allowance and allowance of the Application is hereby solicited. If the Examiner does not believe the Application is in condition for allowance, Applicants request a telephonic or personal interview with the Examiner to discuss the claims in light of the cited references. Please telephone Applicants' Attorney at (202) 333-4504 if an interview is to be scheduled.

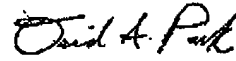
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Tina Kavanaugh

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Respectfully submitted,



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